

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

ANDREW MARTINEZ,

Plaintiff,

vs.

No. CV 19-01121 WJ/KK

NURSE LAURA,  
ALISHA TAFOYA LUCERO-SEC.  
NEW MEXICO DEPT. OF CORR.,  
CENTURIAN CORRECTIONAL HEALTH CARE,  
STEVEN H. WHEELER, M.D., PRESIDENT OF  
CENTURIAN HEALTH CORP. HEALTH CARE,

Defendants.

**MEMORANDUM OPINION AND FINAL ORDER OF DISMISSAL**

**THIS MATTER** is before the Court on the Prisoner's Civil Rights Complaint filed by Plaintiff Andrew Martinez Jr. (Doc. 1). The Court dismisses with prejudice all federal claims asserted by Plaintiff Martinez, declines to exercise supplemental jurisdiction over any state law claims, and dismisses the state law claims without prejudice.

On May 3, 2022, the Court entered its Memorandum Opinion and Order of Dismissal. (Doc. 12). In its prior Memorandum Opinion and Order, the Court concluded that Plaintiff's Complaint failed to state a § 1983 claim for deliberate indifference to serious medical needs under the 8<sup>th</sup> Amendment. (Doc 12 at 5-8). The Court also determined that the Complaint failed to state any federal claim for relief against any of the named individual or entity Defendants. (Doc. 12 at 8-10). The Court also held that Plaintiff's claims relating to grievance handling were not cognizable under § 1983. (Doc. 12 at 10-12). As a result, the Court dismissed all federal claims in Plaintiff's Complaint. The Court also declined to exercise supplemental jurisdiction over any state law claims and dismissed those claims, as well. (Doc. 12 at 12-13).

Last, the Court's May 3, 2022 Memorandum Opinion and Order granted Plaintiff leave to file an amended complaint to remedy the defects in his filing. (Doc. 12 at 12-14). The Court ordered Plaintiff to file an amended complaint within 30 days and notified Plaintiff that if he did not file an amended complaint, the case would be dismissed without further notice. (Doc. 12 at 14). On May 12, 2022, Plaintiff's copy of the May 3, 2022 Memorandum Opinion and Order was returned as undeliverable. (Doc. 13). The returned mail indicated that Plaintiff had been discharged from the custody of the New Mexico Department of Corrections. (Doc. 13).

More than 30 days has elapsed since entry of the Court's Memorandum Opinion and Order. Plaintiff has not filed an amended complaint, has not provided the Court with a current address, and has not communicated with the Court. Therefore, the Court will dismiss Plaintiff's federal claims, with prejudice, will decline to exercise supplemental jurisdiction over any state law claims and dismiss those claims without prejudice, and will enter final judgment closing this case. *Hall v. Bellmon*, 935 F.2d 1106, 1109 (10th Cir. 1991).

**IT IS ORDERED:**

- (1) All federal claims asserted by Plaintiff Andrew Martinez Jr. in his Complaint (Doc. 1) are **DISMISSED with prejudice** for failure to state a claim under Fed. R. Civ. P. 12(b)(6) and 28 U.S.C. § 1915(e)(2)(B);
- (2) The Court declines to exercise supplemental jurisdiction under 28 U.S.C. § 1337 and any state law claims are **DISMISSED without prejudice**; and
- (3) final Judgment will be entered.



WILLIAM P. JOHNSON  
CHIEF UNITED STATES DISTRICT JUDGE